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|                                    |   |          |
|------------------------------------|---|----------|
| In re Application of               | : | DECISION |
| WRIGHT et al.                      | : |          |
| Application No.: 09/786,212        | : |          |
| PCT No.: PCT/CA00/01347            | : |          |
| Int. Filing Date: 20 November 2000 | : |          |
| Priority Date: 18 November 1999    | : |          |
| Attorney Docket No.: 21892-010     | : |          |
| For: ANTISENSE OLIGONUCLEOTIDE     | : |          |
| SEQUENCES DERIVED FROM GROEL AND   | : |          |
| GROES AS INHIBITORS MICROORGANISMS | : |          |

This decision is in response to applicants' "RENEWED PETITION UNDER 37 C.F.R. 1.137(b)" filed 29 March 2004.

### **BACKGROUND**

On 20 November 2000, applicants filed international application PCT/CA00/01347, which claimed a priority date of 18 November 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 25 May 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 16 May 2001, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 18 April 2002.

On 01 March 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of inventors.

On 17 December 2001, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that applicant must provide an initial or substitute computer readable form (CRF) of the "Sequence Listing". The NOTIFICATION set a two-month extendable period for reply.

On 15 February 2002, applicant submitted a "RESPONSE TO NOTIFICATION OF

MISSING REQUIREMENTS UNDER 35 USC 371 IN THE UNITED STATES  
DESIGNATED/ELECTED OFFICE (DO/EO/US) AND SUBMISSION OF REVOCATION BY  
ASSIGNEE AND NEW POWER OF ATTORNEY”.

On 01 April 2002, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that the computer readable form submitted was found to be damaged and/or unreadable as indicated on an attached CRF Diskette Problem Report. This NOTIFICATION set a one month non-extendable period for response.

On 23 October 2002, a Notification was mailed indicating that the mailing address on the NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) was not the mailing address set forth in the change of correspondence address filed 15 February 2002, that this error was discovered after a status inquiry to the PCT Help Desk on 15 October 2002, and that because the NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) mailed 01 April 2002 included an incorrect address, it was **VACATED**. The Notification also indicated that the application was being forwarded to the National Stage Processing Branch of the Office of PCT Operations for processing of the submission of revocation and new power of attorney submitted 15 February 2002 including correction of the mailing address in PALM and for preparation and mailing of a new NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) including the corrected address.

On 11 March 2003, applicants submitted a change of correspondence address.

On 14 April 2003, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that the computer readable form submitted was found to be damaged and/or unreadable as indicated on an attached CRF Diskette Problem Report. This NOTIFICATION set a one month non-extendable period for response.

On 14 July 2003, applicants submitted a “PETITION FOR REVIVAL OF AN UNINTENTIONALLY-ABANDONED PATENT APPLICATION UNDER 37 C.F.R. 1.137(b)”.

On 04 February 2004, a decision was mailed dismissing applicants’ petition under 37 CFR 1.137(b) because the required reply had not been provided. Specifically, the computer readable form of the sequence listing submitted 14 July 2003 contained errors. A copy of the “Raw Sequence Listing Error Report” was enclosed with the decision.

On 29 March 2004, applicant submitted the instant “RENEWED PETITION UNDER 37 C.F.R. 1.137(b)” which was accompanied by, *inter alia*, a computer readable form of the sequence listing, a paper copy of the corrected sequence listing with an amendment directing its entry into the specification, and a statement under 37 CFR § 1.821.

### DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted an acceptable computer-readable form of the sequence listing on diskette, a paper copy of the corrected sequence listing with an amendment directing its entry into the specification, and a statement under 37 CFR 1.821 on 29 March 2004.

As to item (2), applicant submitted the petition fee for a small entity on 14 July 2003.

As to item (3), the required statement has been provided.

### CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.



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